



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

DEC 17 2003

SUBJECT: Confirmation of Verbal Authorization for the CERCLA Removal Action at the Salamanca Trailer Site, City of Salamanca, Cattaraugus County, New York
ACTION MEMORANDUM

FROM: Michael J. Brescio, On-Scene Coordinator *Michael J. Brescio*
Response and Prevention Branch

TO: George Pavlou, Director
Emergency and Remedial Response Division

THRU: Bruce Sprague, Chief *Bruce Sprague*
Response and Prevention Branch

Site ID No.: TX

I. PURPOSE

The purpose of this Action Memorandum is to confirm and document the verbal authorization of May 5, 2003, by George Pavlou, Director, Emergency and Remedial Response Division to conduct a time-critical removal action described herein at the Salamanca Trailer Site (the Site), City of Salamanca, Cattaraugus County, New York. The total project ceiling authorized is \$200,000.

The U.S. Environmental Protection Agency (EPA), received a verbal request from the Seneca Nation of Indians on April 22, 2003, to perform an emergency removal action under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) as amended by 42 U.S.C. §§9601 *et seq.* The request for removal action involved two locations. The first was a forty-five foot abandoned tractor trailer located at 100 Rochester Avenue and the second was a garage at the residential property of 548 Wildwood Avenue.

This Action Memorandum provides documentation of the removal and disposal of all hazardous substances found at the two locations of this Site.

This Site is not on the National Priorities List (NPL) and there are no nationally significant or precedent-setting issues associated with this removal action.

II. SITE CONDITIONS AND BACKGROUND

A. Site Description

1. Removal Site Evaluation

Zolner Contract Refinishing became insolvent and lost their lease for the building they were operating in sometime around December 2002. In order to vacate the property, the owner of Zolner Contract Refinishing obtained a 45 foot trailer to store materials until the material could be properly disposed. The owner had also stored materials in the garage at his residence. A disposal contractor was hired to properly dispose of the wastes in early April of 2003. The disposal contractor allegedly quoted a price to the owner over the phone for the disposal of the materials in the trailer, however, when the contractor began work at the trailer, the contractor doubled his price for the remaining work. Since the owner could not pay this additional cost, the disposal work ceased.

A criminal investigation and sampling event were performed on April 21, 2003, by the EPA Criminal Investigation Division (CID), EPA Region 2 Division of Environmental Science and Assessment (DESA), and New York State Department of Environmental Conservation (NYSDEC), to determine the nature of the chemicals present and to confirm the presence of hazardous materials within the trailer. It was determined that the materials present at both locations were ignitable. The Seneca Nation of Indians made a verbal request to EPA on April 22, 2003 to conduct an emergency removal action.

Based upon information provided from this investigation, a verbal authorization was approved by George Pavlou, Director, Emergency and Remedial Response Division on May 5, 2003.

EPA responded to the Site on May 7, 2003. There are two locations where wastes were stored for this Site. The first is at 548 Wildwood Avenue, which is the home address for the owner of Zolner Contract Refinishing. The hazardous wastes at 548 Wildwood Avenue were located in the residence garage. The garage is not attached to the house. It is a two story, two car garage. One of the two garage doors does not close and windows are missing from the second door. Sixty 5-gallon pails and eight 55-gallon drums of wastes were stored with no regard to chemical compatibility and container stability. There was a slight settling of the garage, making the structure unstable.

The second location is 100 Rochester Avenue, which is where the tractor trailer was located. A very small parcel of land in the parking lot of the Philadelphia Furniture Co. is owned by the Buffalo-Pittsburgh Rail Road. This parcel of land was the physical location of the trailer. The trailer was rented by the owner of Zolner Contract Refinishing from Ken's Trucking Company of Salamanca. The trailer was in very good condition. It is unknown which individual(s) physically placed the drums into the trailer. While the owner did not give detailed information, he stated that the wastes was mostly furniture stripper and stains. The local police department had put a lock on the fifth wheel of the trailer, ensuring that the trailer could not be

moved. One hundred 5-gallon pails and fifty-seven 55-gallon drums were inside the trailer. As with the garage, the containers in the trailer were stored with no regard to chemical compatibility and container stability.

EPA mobilized to the Site on May 7, 2003 to conduct the requested CERCLA removal action. The OSCs met with the ERRS contractor, owner, County Haz-Mat Team, Salamanca Fire Department, and a Compliance Officer from the Seneca Nation of Indians. The doors of the trailer were opened and one leaking drum was identified and stabilized. Once the trailer was secure, the residence was visited with the above referenced group to determine a plan of action. The owner signed an access agreement for both locations.

2. Site Characteristic

The residence at 548 Wildwood Avenue was in a residential area. The trailer located at 100 Rochester Avenue was in a mixed commercial, residential area and was adjacent to the Buffalo-Pittsburgh Rail Road and operating businesses.

3. Release or Threatened Release into the Environment of a Hazardous Substance, or Pollutant or Contaminant

The following is a list of the waste streams as determined by the hazcatting, laboratory analysis, and their potential health and toxicological effects.

The following hazardous substances were identified at the Site:

Substances Identified

Statutory Source for Designation as a Hazardous Substance under CERCLA

Organic Flammable Liquid
D001 - Ignitable Liquids

Section 3001 Resource Conservation and Recovery Act

Organic Flammable Solids
D001 - Ignitable Solids

Section 3001 Resource Conservation and Recovery Act

Each of these substances may exhibit one or more of the following physical or toxicological characteristics: acutely toxic, chronically toxic, and/or poisonous. The potential health effects from these compounds include eye, skin, mucous membrane irritation, and adverse health effects on respiratory and cardiovascular systems.

4. NPL Status

The Site is not on the National Priorities List (NPL), nor is it expected to be listed on the NPL.

B. Other Actions to Date

1. Previous Actions

A sampling event was performed on April 21, 2003, by CID, DESA, and NYSDEC to determine the nature of the chemicals present and to confirm the presence of hazardous materials within the trailer. It was determined that the materials present at both locations were ignitable.

2. Current Actions

There are no current operations going on at the Site. All materials were shipped for off-site disposal. No material remains on site.

C. State and Local Authorities' Roles

1. State and Local Actions to Date

The City of Salamanca as well as the Seneca Nation of Indians provided security for the Site by patrolling the area when site activities had ceased for the evening. The New York State Department of Environmental Conservation, the Seneca Nation of Indians and local authorities did not have the capability to perform a removal action of the hazardous substances.

2. Potential for Continued State/Local Response

The Site is completed and there is no need for any continued response actions.

III. THREATS TO PUBLIC HEALTH OR WELFARE OR THE ENVIRONMENT AND STATUTORY AND REGULATORY AUTHORITIES

A. Threats to Public Health or Welfare

Conditions at the Site met the requirements of Section 300.415(b) of the National Contingency Plan (NCP) for the undertaking of a CERCLA removal action. Factors from NCP Section 300.415 (b)(2) that support conducting a removal action at the Site included Sections (b)(2) (i), (ii), (iii), and (iv).

(i) Actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants;

Many of the materials on the Site were toxic, ignitable and/or corrosive and presented a risk of direct human contact. The Site is located in populated residential and industrial areas. The trailer site was not secured or monitored regularly. At the residential site, the containers were not secured and were stored without regard to chemical compatibility.

The garage in which they were stored, is in poor condition, increasing the chance of a reaction or release. Direct human contact with materials present at both locations, from either a chemical release, fire or vandalism, presented an immediate threat to the individuals involved.

- (ii) **hazardous substances or pollutants or contaminants in drums, barrels, tanks or other bulk storage containers, that may pose a threat of release;**

The hazardous materials on-site were contained in pails and 55 gallon drums without regard to compatibility.

- (iii) **threat of fire or explosion;**

An estimated 2,640 gallons of flammable liquids and 500 pounds of flammable solids wastes were stored in an unsafe manner.

- (iv) **the lack of availability of other appropriate federal or state response mechanisms to response to the release.**

EPA was the only government agency capable of taking timely and appropriate action to respond to the threat posed by the presence of hazardous substances at the Site.

B. Threats to the Environment

Fire or vandalism at either location could have resulted in significant releases of hazardous substances to the environment.

IV. ENDANGERMENT DETERMINATION

Actual or threatened releases of hazardous substances from the Site, if not addressed by implementing the response action selected in this Action Memorandum, may have presented an imminent and substantial endangerment to public health, or welfare, or the environment.

V. **PROPOSED ACTIONS AND ESTIMATED COSTS**

A. **Proposed Actions**

1. **Proposed Action Description**

The following actions were performed to mitigate the threats posed by the hazardous substances found at the two locations previously described. The EPA mobilized the ERRS contractor to the Site and completed the following:

- i. Stabilization and securing of drums.
- ii. Hazcatting and laboratory sampling of drums for waste streams and final disposal.
- iii. Determination of waste characteristics for drums and subsequent waste consolidation.
- iv. Transportation and disposal of the hazardous wastes in accordance with EPA's CERCLA Off-Site Disposal Rule.

2. **Contribution to Remedial Performance**

The EPA's removal action has eliminated the immediate public health and environmental threats posed by the hazardous wastes at the Site. Long term remedial measures are not anticipated at the Site at this time.

3. **Description of Alternative Technologies**

No alternative technologies were appropriate for conducting the removal at this Site.

4. **Engineering Evaluation/Cost Analysis**

Due to the time-critical nature of this removal action, an EE/CA was not prepared.

5. **Applicable or Relevant and Appropriate Requirements (ARARs)**

ARARs within the scope of the project, including RCRA and CERCLA regulations that pertain to the disposal of hazardous wastes, were complied with to the maximum extent practical.

6. **Project Schedule**

The removal was initiated on May 5, 2003, with activation of the ERRS contractor. On site work started on May 7 and site activities were demobilized on May 15, 2003. The Site was restarted on June 10, 2003, for off-site transportation and disposal of wastes from the Site and the removal

action was completed on that day. Two thousand six hundred and forty gallons of flammable organic liquid hazardous waste, five hundred pounds of flammable organic solid hazardous waste, and thirty cubic yards of non-hazardous wastes generated at the Site during the removal action was sent for fuel blending and stabilization.

B. Estimated Costs

Extramural Costs

Regional Removal Allowance Costs:

(Total cleanup contractor costs
include labor, equipment, materials
and laboratory disposal analysis)

Total ERRS Cost \$150,000

RST \$ 25,000

Extramural Costs Contingency \$ 25,000

TOTAL REMOVAL PROJECT CEILING \$200,000

**VI. EXPECTED CHANGE IN THE SITUATION SHOULD ACTION BE DELAYED
OR NOT TAKEN**

Delayed action or no action could have resulted in the release of the hazardous substance into the environment, thereby exposing nearby residents and/or employees of the Philadelphia Furniture Company and surrounding industries to hazardous substances on the Site.

VII. OUTSTANDING POLICY ISSUES

None.

VIII. ENFORCEMENT

As appropriate, cost recovery will be sought from viable responsible parties, if any, with support of the Office of Regional Counsel and the Removal Action Branch.

Enforcement Cost Estimate

Based on full cost accounting practices, the total EPA costs for this removal action, that will be eligible for cost recovery are estimated to be \$269,178 as follows:

EPA's Total Estimated Project-Related Costs

$\$200,000$ (direct extramural costs) + $\$10,000$ (direct intramural costs) = $\$210,000$

28.18% Region-specific Indirect Cost Rate X $\$210,000$ = $\$59,178$

$\$210,000 + \$59,178 = \$269,178$ (**Estimated EPA Costs for Removal Action**)

Note: Direct costs include direct extramural costs and direct intramural costs. Indirect costs are calculated based on an estimated indirect cost rate expressed as a percentage of site-specific direct costs, consistent with the full cost accounting methodology effective October 2, 2000. These estimates do not include pre-judgment interest, do not take into account other enforcement costs, including Department of Justice costs, and may be adjusted during the course of a removal action. The estimates are for illustrative purposes only and their use is not intended to create any rights for responsible parties. Neither the lack of a total cost estimate nor deviation of actual costs from this estimate will affect the United States' right to cost recovery.

IX. RECOMMENDATION

This Action Memorandum represents confirmation of verbal authorization on May 5, 2003, by George Pavlou, Director, Emergency and Remedial Response Division, for the removal action at the Salamanca Trailer Site, City of Salamanca, Cattaraugus County, New York. It was developed in accordance with CERCLA and is not inconsistent with the NCP. This decision is based on the Administrative Record for the Site. Conditions at the Site met the NCP Section 300.415(b)(2) criteria for a removal action. The total project ceiling is \$200,000.

Please indicate your approval of the authorization of funding for the Salamanca Trailer Site, as per the current delegation of authority, by signing below.

Approved: *William Mc Cabe*
George Pavlou, Director
Emergency and Remedial Response Division

Date: 12-17-03

Disapproved: _____
George Pavlou, Director
Emergency and Remedial Response Division

Date: _____

cc: (after approval is obtained)

G. Pavlou, 2ERRD
B. Sprague, 2ERR-RPB
C. Beasley, 5202G
C. Kelley, RST
A. Raddant, USDOJ
J. Higgins, 2ERR-RPB
J. Daloia, 2ERR-RPB
B. Dease, 2ERR-RPB
J. Witkowski, 2ERR-RAB

D. Vizian, 2OPM-FMB
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